

## § 15.23

### § 15.23 Definitions.

(a) *Active duty*. Full-time duty in the NOAA Corps.

(b) *Authorized person*. Any agent or attorney of any state having in effect a plan approved under part D of title IV of the Social Security Act (42 U.S.C. 651-664), who has the duty or authority to seek recovery of any amounts owed as child or child and spousal support (including, when authorized under the state plan, any official of a political subdivision); and the court that has authority to issue an order against a member for the support and maintenance of a child or any agent of such court.

(c) *Child support*. Periodic payments for the support and maintenance of a child or children, subject to and in accordance with state or local law. This includes but is not limited to, payments to provide for health, education, recreation, and clothing or to meet other specific needs of such a child or children.

(d) *Designated official*. The official who is designated to receive notices of failure to make payments from an authorized person (as defined in paragraph (b) of this section). For the Department of Commerce this official is the Assistant General Counsel for Administration.

(e) *Notice*. A court order, letter, or similar documentation issued by an authorized person providing notification that a member has failed to make periodic support payments under a support order.

(f) *Spousal support*. Periodic payments for the support and maintenance of a spouse or former spouse, in accordance with state and local law. It includes, but is not limited to, separate maintenance, alimony while litigation continues, and maintenance. Spousal support does not include any payment for transfer of property or its value by an individual to his or her spouse or former spouse in compliance with any community property settlement, equitable distribution of property, or other division of property between spouses or former spouses.

(g) *Support order*. Any order for the support of any person issued by a court of competent jurisdiction or by administrative procedures established under

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state law that affords substantial due process and is subject to judicial review. A court of competent jurisdiction includes: (1) Indian tribal courts within any state, territory, or possession of the United States and the District of Columbia; and (2) a court in any foreign country with which the United States has entered into an agreement that requires the United States to honor the notice.

### § 15.24 Policy.

(a) It is the policy of the Department of Commerce to require Commissioned Officers of the NOAA Corps on active duty to make involuntary allotments from pay and allowances as payment of child, or child and spousal, support payments when the officer has failed to make periodic payments under a support order in a total amount equal to the support payable for two months or longer. Failure to make such payments shall be established by notice from an authorized person to the designated official. Such notice shall specify the name and address of the person to whom the allotment is payable. The amount of the allotment shall be the amount necessary to comply with the support order. If requested, the allotment may include arrearages as well as amounts for current support, except that the amount of the allotment, together with any other amounts withheld for support from the officer as a percentage of pay, shall not exceed the limits prescribed in section 303 (b) and (c) of the Consumer Credit Protection Act (15 U.S.C. 1673). An allotment under this subpart shall be adjusted or discontinued upon notice from an authorized person.

(b) Notwithstanding the above, no action shall be taken to require an allotment from the pay and allowances of any officer until such officer has had a consultation with an attorney from the Office of the Assistant General Counsel for Administration, in person, to discuss the legal and other factors involved with respect to the officer's support obligation and his/her failure to make payments. Where it has not been possible, despite continuing good faith efforts to arrange such a consultation, the allotment shall start the first pay period beginning after 30 days have

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elapsed since the notice required in paragraph (d)(1) of § 15.25 is given to the affected officer.

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### § 15.25 Procedures.

(a) *Service of notice.* (1) An authorized person shall send to the designated official a signed notice that includes:

(i) A statement that delinquent support payments equal or exceed the amount of support payable for 2 months under a support order, and a request that an allotment be initiated pursuant to 42 U.S.C. 665.

(ii) A certified copy of the support order.

(iii) The amount of the monthly support payment. Such amount may include arrearages, if a support order specifies the payment of such arrearages. The notice shall indicate how much of the amount payable shall be applied toward liquidation of the arrearages.

(iv) Sufficient information identifying the officer to enable processing by the designated official. The following information is requested:

- (A) Full name;
- (B) Social Security Number;
- (C) Date of birth; and
- (D) Duty station location.

(v) The full name and address of the allottee. The allottee shall be an authorized person, the authorized person's designee, or the recipient named in the support order.

(vi) Any limitations on the duration of the support allotment.

(vii) A certificate that the official sending the notice is an authorized person.

(viii) A statement that delinquent support payments are more than 12 weeks in arrears, if appropriate.

(2) The notice shall be accomplished by certified or registered mail, return receipt requested, or by personal service, upon the appropriate designated official, who shall note the date and time of receipt on the notice.

(3) The notice is effective when it is received in the office of the designated official.

(4) When the information submitted is not sufficient to identify the officer, the notice shall be returned directly to

the authorized person with an explanation of the deficiency. However, prior to returning the notice if there is sufficient time, an attempt should be made to inform the authorized person who caused the notice to be served, that it will not be honored unless adequate information is supplied.

(5) Upon receipt of effective notice of delinquent support payments, together with all required supplementary documents and information, the designated official shall identify the officer from whom moneys are due and payable. The allotment shall be established in the amount necessary to comply with the support order and to liquidate arrearages if provided by a support order when the maximum amount to be allotted under this provision, together with any other moneys withheld for support from the officer, does not exceed:

(i) 50 percent of the officer's disposable earnings for any month where the officer asserts by affidavit or other acceptable evidence, that he/she is supporting a spouse and/or dependent child, other than a party in the support order. When the officer submits evidence, copies shall be sent to the authorized person, together with notification that the officer's support claim will be honored.

If the support claim is contested by the authorized person, that authorized person may refer this matter to the appropriate court or other authority for resolution.

(ii) 60 percent of the officer's disposable earnings for any month where the officer fails to assert by affidavit or other acceptable evidence that he/she is supporting a spouse and/or dependent child.

(iii) Regardless of the limitations above, an additional 5 percent of the officer's disposable earnings shall be withheld when it is stated in the notice that the officer is in arrears in an amount equivalent to 12 or more weeks' support.

(b) *Disposable earnings.* The following moneys are subject to inclusion in computation of the officer's disposable earnings:

- (1) Basic pay.
- (2) Special pay (including enlistment and reenlistment bonuses).